

HOUSE JOURNAL

SEVENTY-FOURTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

FORTY-NINTH DAY — WEDNESDAY, APRIL 5, 1995

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 125).

Present — Mr. Speaker; Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Hawley; Yost.

The invocation was offered by Reverend V. Scott Stodghill, Riverbend Church, Austin, as follows:

Dear God, because you believe in us, we can believe in ourselves. Amen.

LEAVES OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of important business in the district:

Hawley on motion of Ehrhardt.

The following member was granted leave of absence for today because of illness:

Yost on motion of Harris.

SIGNED BY THE SPEAKER

The speaker signed in the presence of the house, after giving due notice thereof, the following enrolled resolutions:

HCR 48, HCR 141, HCR 151

MESSAGE FROM THE SENATE

Austin, Texas, April 5, 1995

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

SB 12 by Montford, relating to administrative hearings for the Texas Natural Resource Conservation Commission provided by the State Office of Administrative Hearings.

SB 15 by Whitmire, et al., relating to the prosecution, punishment, and creation of certain criminal offenses and to the sentencing of and facilities for housing certain defendants convicted of criminal offenses.

SB 45 by Shapiro, et al., relating to the punishment and eligibility for parole of certain defendants charged with sexual offenses.

SB 111 by Shapiro, et al., relating to conditions of community supervision, parole, and release on mandatory supervision for defendants charged with or convicted of certain sexual offenses against or involving children.

SB 123 by Leedom, relating to the issuance of specially designed license plates for certain military personnel and veterans.

SB 209 by Nelson, relating to special license plates for peace officers wounded or killed in the line of duty.

SB 267 by Shapiro, et al., relating to sex offender registration and public notification of the release of a sex offender into the community; creating offenses and providing criminal penalties.

SB 271 by Ratliff, relating to the applicant-violator system of the Texas Surface Coal Mining and Reclamation Act.

SB 810 by Lucio, relating to the certification of Texas agricultural products and production processes by the Department of Agriculture; authorizing the imposition of fees; and providing penalties.

SB 832 by Wentworth, providing for the issuance of specially designed United States Olympic Committee Texas license plates.

SB 863 by Barrientos, relating to certain conditions of employment for and investigations of fire fighters and police officers in certain municipalities.

SB 979 by Sibley, et al., relating to programs to increase the number of primary care physicians and allied health personnel in medically underserved areas of this state.

SB 1227 by Armbrister, relating to the regulation of electric cooperative corporations.

SB 1280 by Sibley, et al., relating to the creation of statewide preceptorship programs in general internal medicine and general pediatrics and the expansion of primary care residency positions.

SB 1599 by Truan, et al., relating to the creation of the Texas-Mexico Border Environmental Education Council.

I am directed by the Senate to inform the House that the Senate has granted the request of the House for the appointment of a Conference Committee to adjust the differences between the two Houses on **HB 1**.

The following have been appointed on the part of the Senate: Senator Montford, chair, Senator Truan, Senator Bivins, Senator Brown, and Senator Zaffirini.

Respectfully,
Betty King
Secretary of the Senate

CAPITOL PHYSICIAN

Speaker Laney presented Dr. James Womack of Bandera as the "Doctor for the Day."

The house welcomed Dr. Womack and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

SCR 117 - ADOPTED (Black - House Sponsor)

Representative Black moved to suspend all necessary rules to take up and consider at this time **SCR 117**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

SCR 117

WHEREAS, Article III, Section 17, of the Texas Constitution provides that neither house of the legislature may adjourn for more than three days without the consent of the other house; now, therefore, be it

RESOLVED by the 74th Legislature, That each house grant the other permission to adjourn for more than three days during the period beginning on Wednesday, April 12, 1995, and ending on Tuesday, April 18, 1995.

The resolution was read and was adopted without objection.

HR 530 - ADOPTED

Representative Junell moved to suspend all necessary rules to take up and consider at this time **HR 530**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

By Junell,

HR 530, Designating Colorado City as the Heart of West Texas.

The resolution was read and was adopted without objection.

RESOLUTIONS REFERRED TO COMMITTEE

The following resolutions were laid before the house and referred to committee:

By Price,

HR 544, Honoring James Brown, quarterback of The University of Texas Longhorns.

To Committee on Rules and Resolutions.

By Price,

HR 545, Commemorating the 127th anniversary of East Mount Olive Baptist Church.

To Committee on Rules and Resolutions.

By Price,

HR 546, Honoring the Port Arthur Lincoln High School boys' basketball team.

To Committee on Rules and Resolutions.

By Telford,

HR 548, Honoring Mathews Cleaners.

To Committee on Rules and Resolutions.

By Romo,

HR 549, Honoring the Great Northwest Community Improvement Association of San Antonio.

To Committee on Rules and Resolutions.

By Duncan,

HR 550, Welcoming a delegation of students from O. L. Slaton Junior High School to the State Capitol.

To Committee on Rules and Resolutions.

By Hawley,

HR 551, Commending the employees and managers of the Occidental Chemical Corporation.

To Committee on Rules and Resolutions.

By Harris,

HCR 157, In memory of Pearland Mayor C. V. "Vic" Coppinger.

To Committee on Rules and Resolutions.

SCR 115, Commemorating the life of service of James Pinckney Henderson.

To Committee on Rules and Resolutions.

SCR 118, Proclaiming the week of April 9 through April 15, 1995, as Institute of Texas Cultures Week.

To Committee on Rules and Resolutions.

(Black in the chair)

HR 506 - ADOPTED

Representative Krusee moved to suspend all necessary rules to take up and consider at this time **HR 506**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Krusee,

HR 506, Commending the city of Taylor for its efforts against drug trafficking.

The resolution was adopted without objection.

HB 3198 - PERMISSION TO INTRODUCE

Representative Rabuck moved to suspend the constitutional rule for permission to introduce and have placed on first reading **HB 3198**.

A record vote was requested.

The motion prevailed by (Record 126): 139 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Bosse; Brady; Brimer; Carter; Chisum; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Black(C); Rhodes.

Absent, Excused — Hawley; Yost.

Absent — Carona; Clemons; Coleman; Horn; Mowery; Staples.

STATEMENT OF VOTE

When Record No. 126 was taken, I was in the house but away from my desk. I would have voted yes.

Horn

HB 3199 - PERMISSION TO INTRODUCE

Representative Swinford moved to suspend the constitutional rule for permission to introduce and have placed on first reading **HB 3199**.

A record vote was requested.

The motion prevailed by (Record 127): 142 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culbertson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Munoz; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker; Black(C); Rhodes.

Absent, Excused — Hawley; Yost.

Absent — Mowery; Naishtat; Staples.

HB 3200 - PERMISSION TO INTRODUCE

Representative Brady moved to suspend the constitutional rule for permission to introduce and have placed on first reading **HB 3200**.

A record vote was requested.

The motion prevailed by (Record 128): 143 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culbertson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker; Black(C).

Absent, Excused — Hawley; Yost.

Absent — Alonzo; Dukes; Staples.

HB 3201 - PERMISSION TO INTRODUCE

Representative Romo moved to suspend the constitutional rule for permission to introduce and have placed on first reading **HB 3201**.

A record vote was requested.

The motion prevailed by (Record 129): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Bosse; Brady; Brimer; Carona; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Counts; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker; Black(C).

Absent, Excused — Hawley; Yost.

Absent — Allen; Clemons; Crabb; Dukes; Duncan; Hochberg; Lewis, R.; Moffat; Williamson.

STATEMENT OF VOTE

When Record No. 129 was taken, I was in the house but away from my desk. I would have voted yes.

Crabb

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of important business:

Hudson on motion of Price.

HB 3202 - PERMISSION TO INTRODUCE

Representative Kamel moved to suspend the constitutional rule for permission to introduce and have placed on first reading **HB 3202**.

A record vote was requested.

The motion prevailed by (Record 130): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Berlanga; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Counts; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker; Black(C).

Absent, Excused — Hawley; Hudson; Yost.

Absent — Corte; Crabb; Dukes; Duncan; Siebert; Williamson.

STATEMENT OF VOTE

When Record No. 130 was taken, I was temporarily out of the house chamber. I would have voted yes.

Crabb

HB 900 - RECOMMITTED

Representative Craddick moved to recommit **HB 900** to the Committee on Ways and Means.

The motion prevailed without objection.

HR 480 - ADOPTED

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 480**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Edwards,

HR 480, Granting the Education Committee of the Legislative Black Caucus permission to use the house chamber on April 21, 1995.

The resolution was adopted without objection.

HR 554 - ADOPTED

Representative Moffat moved to suspend all necessary rules to take up and consider at this time **HR 554**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Moffat,

HR 554, Honoring Margret Whitcomb Robertson Moffat.

The resolution was adopted without objection.

HR 551 - ADOPTED

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 551**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Hawley,

HR 551, Commending the employees and managers of the Occidental Chemical Corporation.

The resolution was adopted without objection.

HR 502 - ADOPTED

Representative Bosse moved to suspend all necessary rules to take up and consider at this time **HR 502**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By Bosse, Yarbrough, Farrar, S. Turner, and Torres,

HR 502, Congratulating David S. Mireles on his 40th birthday.

The resolution was adopted without objection.

HR 552 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 552**, suspending the limitations on the conferees for **SB 821**.

HR 525

HR 525, recognizing April 5, 1995, as Hillsboro Day at the State Capitol, having been previously adopted, was read.

HCR 153 - ADOPTED

Representative J. Jones moved to suspend all necessary rules to take up and consider at this time **HCR 153**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

By J. Jones, Rusling, and Averitt,

HCR 153, Commemorating the 150th anniversary of the chartering of Baylor University.

The resolution was read and was adopted without objection.

On motion of Representative Kubiak, the names of all the members of the house were added to **HCR 153** as signers thereof.

SB 25 ON SECOND READING
(Junell - House Sponsor)

The chair laid before the house, on its second reading and passage to third reading, the complete committee substitute for **SB 25**.

CSSB 25, A bill to be entitled An Act relating to exemplary damages in civil suits.

CSSB 25 was read second time.

(Speaker in the chair)

Amendment No. 1

Representative Junell offered the following amendment to **CSSB 25**:

Amend **CSSB 25** as follows:

(1) On page 6, line 22, strike "agent or".

(2) On page 7, strike lines 9-19 and substitute the following:

(c) In an action arising out of a criminal act committed by an employee, the employer may be liable for punitive damages but only if:

(1) the principal authorized the doing and the manner of the act;

(2) the agent was unfit and the principal acted with malice in employing or retaining him;

(3) the agent was employed in a managerial capacity and was acting in the scope of employment; or

(4) the employer or a manager of the employer ratified or approved the act.

(Hudson now present)

Amendment No. 1 was adopted.

Amendment No. 2

Representative Corte offered the following amendment to **CSSB 25**:

Strike the language in Section 2 on page 11. Substitute an appropriately numbered section containing the following language: This Act takes effect September 1, 1995, and applies only to an action commenced on or after that date. An action commenced before the effective date of this Act is governed by the law in effect at the time the action was commenced, and that law is in effect for that purpose.

Representative T. Hunter moved to table Amendment No. 2.

A record vote was requested.

The motion to table prevailed by (Record 131): 116 Yeas, 27 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Berlanga; Black; Bosse; Brady; Brimer; Carona; Carter; Clemons; Coleman; Combs; Cook; Counts; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Driver; Dukes; Duncan; Dutton; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Gutierrez; Haggerty; Hamric; Hartnett; Hernandez; Hightower; Hilbert; Hill; Hirschi; Hochberg; Hudson; Hunter, B.; Hunter, T.; Janek; Johnson; Jones, D.; Jones, J.; Junell; King; Kubiak; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Smithee; Solis; Solomons; Staples; Stiles; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Willis; Wolens; Woolley; Yarbrough; Zbraneck.

Nays — Chisum; Conley; Crabb; Craddick; Culberson; Denny; Elkins; Finnell; Grusendorf; Harris; Heflin; Hilderbran; Holzheuser; Horn; Howard; Kamel; Krusee; Kuempel; Madden; Marchant; Rabuck; Shields; Siebert; Swinford; Williamson; Wilson; Wohlgemuth.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hawley; Yost.

Absent — Bailey; Corte; Edwards; Jackson.

STATEMENT OF VOTE

When Record No. 131 was taken, I was in the house but away from my desk. I would have voted no.

Corte

MESSAGE FROM THE SENATE

Austin, Texas, April 5, 1995

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

HB 666 by Oliveira, et al. (Sponsor-Lucio), relating to the issuance of bonds by a higher education facilities corporation to finance facilities for certain military-related primary or secondary schools.

Respectfully,
Betty King
Secretary of the Senate

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Pensions and Investments, on recess today, Desk 54, to consider **HB 1295**.

RECESS

Representative Junell moved that the house recess until 1:30 p.m.

The motion prevailed without objection.

The house accordingly, at 12:03 p.m., recessed until 1:30 p.m.

AFTERNOON SESSION

The house met at 1:30 p.m. and was called to order by the speaker.

(Speaker pro tempore in the chair)

SIGNED BY THE SPEAKER

The chair announced that the speaker signed in the presence of the house, after giving due notice thereof, the following enrolled resolution:

HCR 49**CSSB 25 - (pending business)****Amendment No. 3**

Representative S. Turner offered the following amendment to **CSSB 25**:

Amend **CSSB 25** as follows:

On page 8, line 8, delete "two" and insert "three" in its place.

Representative Junell moved to table Amendment No. 3.

The motion to table prevailed.

Amendment No. 4

Representative Danburg offered the following amendment to **CSSB 25**:

Amend **CSSB 25** in SECTION 1 of the bill in the section of the Civil Practice and Remedies Code renumbered as Section 41.008, in Subsection (b)(1)(B), on page 8, Line 11, by striking "\$750,000" and substituting "one-tenth of the defendant's net worth".

(Speaker in the chair)

Representative Junell moved to table Amendment No. 4.

The motion to table prevailed.

Amendment No. 5

Representative S. Turner offered the following amendment to **CSSB 25**:

Amend **CSSB 25** as follows:

On page 8, line 12. Delete the period and insert a semicolon.

On page 8, between lines 12 and 13. Insert a new Subsection (3), as follows:

(3) actual damages, whichever is greater.

Representative T. Hunter moved to table Amendment No. 5.

The motion to table prevailed.

CSSB 25, as amended, was passed to third reading. (Conley recorded voting no)

SB 222 ON SECOND READING
(Danburg and Farrar - House Sponsors)

The speaker laid before the house, in lieu of **CSHB 126**, on its second reading and passage to third reading,

SB 222, A bill to be entitled An Act relating to a prohibition of the requirement of a polygraph examination of a complainant as a condition of charging a defendant accused of certain criminal offenses.

The bill was read second time and was passed to third reading.

CSHB 126 - LAID ON THE TABLE SUBJECT TO CALL

Representative Danburg moved to lay **CSHB 126** on the table subject to call.

The motion prevailed without objection.

HB 307 ON THIRD READING

The speaker laid before the house, as postponed business, on its third reading and final passage,

HB 307, A bill to be entitled An Act relating to a municipality's authority to obtain a lien against certain dangerous structures.

The bill was read third time on March 29 and was postponed until 10 a.m. today.

Representative Park moved to lay **HB 307** on the table subject to call.

The motion prevailed without objection.

SB 97 ON SECOND READING
(Goodman - House Sponsor)

The speaker laid before the house, in lieu of **CSHB 239**, on its second reading and passage to third reading,

SB 97, A bill to be entitled An Act relating to controlled killing of, attempting to injure, certain uses of, and possession of certain dangerous wild animals; providing a criminal penalty.

The bill was read second time.

Amendment No. 1

On behalf of Representative Chisum, Representative Goodman offered the following amendment to the bill:

Amend **SB 97** as follows:

On page 1, strike line 11 and substitute the following: "control or kept caged or penned."

Amendment No. 1 was adopted without objection.

SB 97, as amended, was passed to third reading. (Carter, Denny, Heflin, Horn, T. Hunter, and Shields recorded voting no; Greenberg, yes)

CSHB 239 - LAID ON THE TABLE SUBJECT TO CALL

Representative Goodman moved to lay **CSHB 239** on the table subject to call.

The motion prevailed without objection.

HB 1612 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1612, A bill to be entitled An Act relating to the application to religious facilities of the law relating to architectural barriers.

The bill was read third time.

Amendment No. 1

Representatives H. Cuellar, Moreno, and B. Hunter offered the following amendment to the bill:

Amend **HB 1612** on third reading by striking Subsection (g) as added to Section 2, Article 9102, Revised Statutes, and substituting a new Subsection (g) to read as follows:

(g) The standards adopted under this article do not apply to a place used primarily for religious rituals within a building or facility of a religious organization.

Amendment No. 1 was adopted without objection.

A record vote was requested.

HB 1612, as amended, was passed by: (Record 132): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Clemons; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hawley; Yost.

Absent — Alonzo; Berlanga; Lewis, G.; Wohlgemuth.

STATEMENTS OF VOTE

When Record No. 132 was taken, I was in the house but away from my desk. I would have voted yes.

G. Lewis

When Record No. 132 was taken, I was temporarily out of the house chamber. I would have voted yes.

Wohlgemuth

HB 325 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 325, A bill to be entitled An Act relating to requiring public notice of an application for an authorization to store certain radioactive waste.

The bill was read third time and was passed.

HB 308 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 308, A bill to be entitled An Act relating to the waiver of trial by jury by a defendant charged with an offense punishable by fine only.

The bill was read third time and was passed.

HB 46 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 46, A bill to be entitled An Act relating to consideration of certain claims in nonrenewal of certain insurance policies.

The bill was read third time and was passed.

HB 1422 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 1422, A bill to be entitled An Act relating to certain fees charged by local recording agents.

A record vote was requested.

The bill was read third time and was passed by (Record 133): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alonzo; Alvarado; Averitt; Bailey; Black; Bosse; Brady; Brimer; Carona; Carter; Chisum; Coleman; Combs; Conley; Cook; Corte; Counts; Crabb; Craddick; Cuellar, H.; Cuellar, R.; Culberson; Danburg; Davila; Davis; De La Garza; Dear; Delisi; Denny; Driver; Dukes; Duncan; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Giddings;

Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Harris; Hartnett; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hirschi; Hochberg; Holzheuser; Horn; Howard; Hudson; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Jones, J.; Junell; Kamel; King; Krusee; Kubiak; Kuempel; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Mowery; Munoz; Naishtat; Nixon; Oakley; Ogden; Oliveira; Park; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna; Rhodes; Rodriguez; Romo; Rusling; Sadler; Saunders; Seidlits; Serna; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Willis; Wilson; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hawley; Yost.

Absent — Berlanga; Clemons; Lewis, G.; Shields.

STATEMENT OF VOTE

When Record No. 133 was taken, I was in the house but away from my desk. I would have voted yes.

Shields

HB 2182 ON THIRD READING

The speaker laid before the house, on its third reading and final passage,

HB 2182, A bill to be entitled An Act relating to use of funds in the operation game thief fund and membership of the Operation Game Thief Committee.

The bill was read third time and was passed.

HB 383 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 383**.

CSHB 383, A bill to be entitled An Act relating to liability of certain governmental units and to the employees and officers of those units.

CSHB 383 was read second time.

Amendment No. 1

Representative Junell offered the following amendment to **CSHB 383**:

Amend **CSHB 383** as follows:

(1) Delete SECTION 2 and renumber subsequent sections accordingly.
(2) In SECTION 5, Sec. 108.001(1)(B), add the following between the number "104.001" and the period:

"or Section 102.001"

(3) In SECTION 5, Sec. 108.001(2), delete the colon, delete subsection (A) and the letter "(B)" so that subsection 108.001(2) will read:

"(2) "Public servant" does not include an independent contractor, an agent or employee of an independent contractor, or another person who performs a contract for a unit of government."

(4) In SECTION 5, Sec. 108.002(a), add the following after the word "servant":

" , other than a person licensed pursuant to either Article 4495b, Article 4513, Article 4528c or Article 4542a, TEX. REV. CIV. STAT.,"

(5) In SECTION 5, Sec. 108.002(b), add the following after the word "servant":

" , other than a person licensed pursuant to either Article 4495b, Article 4513, Article 4528c or Article 4542a, TEX. REV. CIV. STAT.,"

Amendment No. 2

Representatives McDonald and Van de Putte offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 to **CSHB 383** as follows:

(1) On page 1, strike lines 16-18 and substitute the following:

" , other than a person licensed under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes),"

(2) On page 1, strike lines 21-23 and substitute the following:

" , other than a person licensed under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes),"

Amendment No. 2 was adopted without objection.

Amendment No. 1, as amended, was adopted.

Amendment No. 3

Representative Farrar offered the following amendment to **CSHB 383**:

Amend **CSHB 383** as follows:

(1) Add the following appropriately numbered sections:

SECTION _____. Subchapter C, Chapter 101, Civil Practice and Remedies Code, is amended by adding Section 101.064 to read as follows:

Sec. 101.064. LAND ACQUIRED UNDER FORECLOSURE OF LIEN. (a) This section applies only to a municipality with a population of 1.5 million or more that acquires land at a sale following the foreclosure of a lien held by the municipality.

(b) This chapter does not apply to a claim that:

(1) arises after the date the land was acquired and before the date the land is sold, conveyed, or exchanged by the municipality; and

(2) arises from:

(A) the condition of the land;

(B) a premises defect on the land; or

(C) an action committed by any person, other than an agent or employee of the municipality, on the land.

(c) In this section, the term "land" includes any building or improvement located on land acquired by a municipality.

SECTION _____. The change in law made by this Act by the addition of Section 101.064, Civil Practice and Remedies Code, applies only to a claim

brought against a municipality that is filed with a court on or after the effective date of this Act. A claim filed with a court before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(2) Renumber the subsequent sections of the bill appropriately.

Amendment No. 3 was adopted without objection.

CSHB 383, as amended, was passed to engrossment.

HB 941 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 941**.

CSHB 941, A bill to be entitled An Act relating to the service and return of a subpoena in a criminal proceeding.

CSHB 941 was read second time and was passed to engrossment.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of illness:

Carona on motion of Kubiak.

HB 1144 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1144, A bill to be entitled An Act relating to workers' compensation insurance coverage for certain volunteer emergency medical technicians.

The bill was read second time and was passed to engrossment. (Shields recorded voting no)

HB 1097 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1097, A bill to be entitled An Act relating to administrative hearings for the Texas Natural Resource Conservation Commission provided by the State Office of Administrative Hearings.

The bill was read second time.

Representative Bosse moved to postpone consideration of **HB 1097** until 10 a.m. Monday, April 24.

The motion prevailed without objection.

HB 1343 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1343**.

CSHB 1343, A bill to be entitled An Act relating to inmate grievances and frivolous or malicious litigation filed by inmates.

CSHB 1343 was read second time.

Amendment No. 1

Representative Place offered the following amendment to **CSHB 1343**:

Amend **CSHB 1343** (1st Committee Printing) as follows:

(1) On page 9, between lines 17 and 18, insert the following:

Sec.14.013. REVIEW AND RECOMMENDATION BY MAGISTRATES. (a) The supreme court shall, by rule, adopt a system under which a court may refer a suit governed by this chapter to a magistrate for review and recommendation.

(b) The cost of the system adopted under Subsection (a) shall be paid from money appropriated to the department. The court shall consult with the department in developing the system.

(c) For the purposes of Section 14.014, the adoption of a system by rule under Subsection (a) does not constitute a modification or repeal of a provision of this chapter.

(2) On page 9, line 18, strike "Sec. 14.013" and substitute "Sec. 14.014".

Amendment No. 1 was adopted without objection.

CSHB 1343, as amended, was passed to engrossment.

HB 2727 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 2727**.

CSHB 2727, A bill to be entitled An Act relating to the prosecution and punishment of certain criminal offenses and to the sentencing of certain defendants convicted of criminal offenses.

CSHB 2727 was read second time.

Amendment No. 1

Representative Place offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** as follows:

(1) On page 2, line 25, strike "and (11)" and substitute ", (11), and (12)".

(2) On page 3, between lines 19 and 20, insert the following:

(12) "Device" means a device other than a nondecoding or nondescrambling channel frequency converter or television receiver type-accepted by the Federal Communications Commission.

(3) Add an appropriately numbered SECTION to read as follows, and renumber the existing SECTIONS accordingly:

SECTION ____ Chapter 31, Penal Code, is amended by adding Section 31.12 to read as follows:

Sec. 31.12. MANUFACTURE, SALE, OR DISTRIBUTION OF TELEVISION DECODING AND INTERCEPTION DEVICE OR CABLE DESCRAMBLING, DECODING, OR INTERCEPTION DEVICE. (a) A person commits an offense if the person for remuneration intentionally or knowingly manufactures, assembles, modifies, imports into the state, exports out of the state, distributes, or sells, with an intent to aid an offense of theft of cable

television service under Section 31.04, a device, a plan for a system of components, or part for a device that intercepts, descrambles, or decodes a cable television service.

(b) This section does not prohibit the manufacture, distribution, sale, or use of satellite receiving antennas that are otherwise permitted by state or federal law.

(c) An offense under this section is a Class A misdemeanor.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Place offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** by adding an appropriately numbered SECTION to read as follows and by renumbering the existing SECTIONS of the bill accordingly:

SECTION _____. Sections 12.42(a) and (e), Penal Code, are amended to read as follows:

(a)(1) If it is shown on the trial of a state jail felony punishable under Section 12.35(a) for an offense under Subtitle C, Title 6, Health and Safety Code, that the defendant has previously been convicted of two felonies under Subtitle C, and the second previous conviction is for an offense that occurred subsequent to the entry of the judgment for the first previous conviction, on conviction he shall be punished:

(A) as provided by Section 12.35(a); or

(B) for a third-degree felony.

(2) If it is shown on the trial of a state jail felony punishable under Section 12.35(c) or on the trial of a third-degree felony that the defendant has been once before convicted of a felony, on conviction he shall be punished for a second-degree felony.

(e) A previous conviction for a state jail felony punishable under Section 12.35(a) may be used for enhancement purposes only under Subsection (a)(1). A previous conviction for a state jail felony punishable under Section 12.35(c) may be used for enhancement purposes under Subsections (a), (b), (c), and (d) [this section only if the defendant was punished for the offense under Section 12.35(e)].

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative Place offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** by adding an appropriately numbered SECTION to read as follows and by renumbering the existing SECTIONS accordingly:

SECTION _____. Section 3g(a), Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(a) The provisions of Section 3 of this article do not apply:

(1) to a defendant adjudged guilty of an offense defined by the following sections of the Penal Code:

(A) Section 19.02 (Murder);

(B) Section 19.03 (Capital murder);

- (C) Section 21.11(a)(1) (Indecency with a child);
- (D) Section 20.04 (Aggravated kidnapping);
- (E) Section 22.021 (Aggravated sexual assault);
- (F) Section 29.03 (Aggravated robbery);
- (G) Section 22.011(a)(2) (Sexual assault); or

(2) to a defendant when it is shown that a deadly weapon as defined in Section 1.07, Penal Code, was used or exhibited during the commission of a felony offense or during immediate flight therefrom, and that the defendant used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited. On an affirmative finding under this subdivision, the trial court shall enter the finding in the judgment of the court. On an affirmative finding that the deadly weapon was a firearm, the court shall enter that finding in its judgment.

Amendment No. 3 was adopted without objection.

Amendment No. 4

Representative Place offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** by striking SECTION 13 and substituting a new SECTION 13 to read as follows:

SECTION 13. Section 481.134(b), Health and Safety Code, is amended to read as follows:

(b) An offense otherwise punishable as a felony of the second degree [The minimum term of confinement or imprisonment for an offense and the maximum fine for an offense] under Section 481.112, 481.113, 481.114, [481.119,] or 481.120 is punishable as a felony of the first degree, and an offense otherwise punishable as a state jail felony under any of those sections is punishable at the discretion of the court as a state jail felony or a felony of the third degree, [are doubled] if it is shown at the punishment phase of [on] the trial of the offense that the offense was committed:

(1) in, on, or within 1,000 feet of premises owned, rented, or leased by a school or an institution of higher learning or a playground; or

(2) in, on, or within 300 feet of the premises of a public or private youth center, public swimming pool, or video arcade facility.

Amendment No. 4 was adopted without objection.

Amendment No. 5

Representative Nixon offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** as follows:

(1) On page 15, line 18, strike "[a]" and substitute "(a)".

(2) Add an appropriately numbered SECTION to read as follows and renumber the existing SECTIONS accordingly:

SECTION _____. Section 20, Article 42.12, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsection (a), a defendant convicted of an offense for which punishment is imposed under Section 49.09(a), Penal Code, must satisfactorily complete two-thirds of the original community supervision period before the judge may reduce or terminate the period of community supervision.

and a defendant convicted of a felony under Chapter 49, Penal Code, is not eligible for reduction or termination of community supervision.

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Kubiak offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** (1st Printing) as follows:

(1) On page 12, line 24, between "Subsections" and "(b)", insert "(a)".

(2) On page 12, between lines 25 and 26, insert the following:

"(a) On conviction of a state jail felony, the judge shall suspend the imposition of the sentence of confinement and place the defendant on community supervision, unless the defendant has previously been convicted of a felony, in which event the judge may place the defendant on community supervision. The judge may suspend in whole or in part the imposition of any fine imposed on conviction."

Representative Place moved to table Amendment No. 6.

A record vote was requested.

The motion to table prevailed by (Record 134): 86 Yeas, 55 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Bailey; Black; Bosse; Brady; Carter; Clemons; Combs; Cook; Counts; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dear; Dukes; Dutton; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Gutierrez; Hamric; Hernandez; Hightower; Hill; Hirschi; Hochberg; Hunter, B.; Hunter, T.; Johnson; Jones, J.; Junell; King; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McCall; McCoulskey; McDonald; Moreno; Mowery; Naishtat; Oliveira; Park; Pitts; Place; Price; Puente; Ramsay; Rangel; Reyna; Rhodes; Rodriguez; Romo; Sadler; Saunders; Seidlits; Serna; Solis; Solomons; Stiles; Telford; Thompson; Tillery; Torres; Turner, S.; Uher; Van de Putte; Walker; Willis; Wilson; Wolens; Yarbrough.

Nays — Averitt; Brimer; Chisum; Conley; Corte; Crabb; Craddick; Culberson; Delisi; Denny; Driver; Duncan; Edwards; Elkins; Finnell; Grusendorf; Haggerty; Harris; Hartnett; Heflin; Hilbert; Hilderbran; Holzheuser; Horn; Howard; Jackson; Janek; Jones, D.; Krusee; Kubiak; Kuempel; Madden; Marchant; Moffat; Munoz; Nixon; Oakley; Ogden; Patterson; Pickett; Rabuck; Raymond; Rusling; Shields; Siebert; Smithee; Staples; Swinford; Talton; Turner, B.; West; Williamson; Wohlgemuth; Woolley; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Carona; Hawley; Yost.

Absent — Alonzo; Berlanga; Coleman; Hudson; Kamel.

STATEMENT OF VOTE

When Record No. 134 was taken, I was out in the hall speaking with a constituent. I would have voted yes.

Coleman

REASONS FOR VOTE

I voted to table this amendment because of the costs.

Cook

If this amendment had gone on this bill it would have cost an extra 300 million dollars in the next biennium budget. Any available dollars at this time needs to be spent on education. If properly applied state jail felonies work. Additionally with the changes to the Penal Code being made in this bill Texas will be a safer place to live.

Stiles

Amendment No. 7

Representative Kubiak offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** by striking SECTIONS 4 and 5 of the bill and renumbering the existing SECTIONS of the bill accordingly.

(Hawley now present)

Representative Place moved to table Amendment No. 7.

The motion to table prevailed.

Amendment No. 8

Representative Hochberg offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** by adding appropriately numbered Sections to read as follows and renumbering the existing Sections of the bill accordingly:

SECTION _____. Subsections (d) and (e), Article 67011-1, Revised Statutes, as amended by Chapter 886, Acts of the 73rd Legislature, Regular Session, 1993, are repealed.

SECTION _____. Section 13(a), Article 42.12, Code of Criminal Procedure, as amended by Chapters 886 and 900, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) A judge granting community supervision to a defendant convicted of an offense under Chapter 49, Penal Code, shall require as a condition of community supervision that the defendant submit to:

~~[(1) 72 hours of detention in a jail if the defendant was convicted under Subsection (d) of Article 67011-1, Revised Statutes, of which not less than 48 hours must be served consecutively, except that in lieu of the requirement of 48 consecutive hours of detention, the court may require not less than 80 hours of community service; 10 days of detention in a jail if the defendant was convicted under Subsection (e) of Article 67011-1, Revised Statutes, of which not less than 48 hours must be served consecutively, except that in lieu of the requirement of 48 consecutive hours of detention, the court may require not less than 160 hours of community service, or 30 days of detention in a jail if the defendant was convicted under Subsection (f) of Article 67011-1, Revised Statutes, of which not less than 48 hours must be served consecutively, except that in lieu of the requirement of 48 consecutive hours of detention, the court may require not less than 360 hours of community service; and]~~

(1) not less than 72 hours of continuous confinement if the defendant was punished under Section 49.09(a); not less than 10 days of continuous confinement if the defendant was punished under 49.09(b) or (c); or not less than 30 days of continuous confinement if the defendant was convicted under Section 49.07; and

(2) an evaluation by a supervision officer or by a person, program, or facility approved by the Texas Commission on Alcohol and Drug Abuse for the purpose of having the facility prescribe and carry out a course of conduct necessary for the rehabilitation of the defendant's drug or alcohol dependence condition.

Amendment No. 8 was adopted without objection.

Amendment No. 9

Representative Kamel offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** by adding an appropriately numbered SECTION to read as follows and by renumbering the existing SECTIONS of the bill accordingly:

SECTION _____. Section 49.08, Penal Code, is amended to read as follows:

Sec. 49.08. INTOXICATION MANSLAUGHTER. (a) A person commits an offense if the person:

(1) operates a motor vehicle in a public place, an aircraft, or a watercraft; and

(2) is intoxicated and by reason of that intoxication causes the death of one or more other persons ~~[another]~~ by accident or mistake.

(b) An offense under this section is:

(1) a felony of the second degree if the actor causes the death of one other person; or

(2) a felony of the first degree if the actor causes the death of more than one other person.

Amendment No. 9 was adopted without objection.

Amendment No. 10

Representative Delisi offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** (1st Committee Printing) by inserting the following appropriately numbered section and renumbering subsequent sections of the bill accordingly:

SECTION _____. Sections 38.05(a) and (c), Penal Code, are amended to read as follows:

(a) A person commits an offense if, with intent to hinder the arrest, prosecution, conviction, or punishment of another for an offense or, with intent to hinder the arrest, detention, adjudication, or disposition of a child for engaging in delinquent conduct that violates a penal law of the grade of felony, he:

(1) harbors or conceals the other;

(2) provides or aids in providing the other with any means of avoiding arrest or effecting escape; or

(3) warns the other of impending discovery or apprehension.

(c) An offense under this section is a Class A misdemeanor, except that the offense is a felony of the third degree if the person who is harbored, concealed, provided with a means of avoiding arrest or effecting escape, or warned of discovery or apprehension is under arrest for, charged with, or convicted of a felony, or is in custody or detention for, is alleged in a petition to have engaged in, or has been adjudicated as having engaged in delinquent conduct that violates a penal law of the grade of felony, and the person charged under this section knew that the person they harbored, concealed, provided with a means of avoiding arrest or effecting escape, or warned of discovery or apprehension is under arrest for, charged with, or convicted of a felony, or is in custody or detention for, is alleged in a petition to have engaged in, or has been adjudicated as having engaged in delinquent conduct that violates a penal law of the grade of felony.

Amendment No. 10 was adopted without objection.

Amendment No. 11

Representative Hill offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** by adding an appropriately numbered SECTION to read as follows and by renumbering the existing SECTIONS of the bill accordingly:

SECTION _____. Section 49.03, Penal Code, is amended to read as follows:

Sec. 49.03. Consumption or Possession of Alcoholic Beverage in Motor Vehicle. (a) A person commits an offense if the person consumes an alcoholic beverage while operating a motor vehicle in a public place and is observed doing so by a peace officer.

(b) A person commits an offense if the person operates or travels in a motor vehicle in a public place and the motor vehicle has, present in the passenger portion of the vehicle, a bottle, can, or other receptacle that contains an alcoholic beverage and that has been opened, has a seal broken, or has the contents partially removed.

(c) Subsection (b) does not apply if the alcoholic beverage is in the possession:

(1) of a passenger in the living quarters of a house trailer; or

(2) of a passenger, other than the owner, who has hired the vehicle and the vehicle is owned or operated by a person engaged in the business of transporting passengers for compensation.

(d) Subsection (b) does not apply if the alcoholic beverage is in the possession of a doctor or patient carrying alcoholic beverages for therapeutic purposes. The department may require acceptable medical proof for a person carrying a container of alcohol for therapeutic purposes.

(e) Subsection (b) does not apply if the alcoholic beverage is in the possession of a minister, priest, rabbi, accredited Christian Science practitioner, or other similar functionary of a religious organization who is carrying it for religious purposes.

(f) An offense under this section is a Class C misdemeanor.

Amendment No. 11 was adopted without objection.

Amendment No. 12

Representative Hill offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** by adding an appropriately numbered SECTION to read as follows and by renumbering the existing SECTIONS accordingly:

SECTION _____. Section 49.09, Penal Code, is amended by adding Subsection (f) to read as follows:

(f) If it is shown on the trial of an offense otherwise punishable under Subsection (a) that at the time of the offense the person driving or operating the motor vehicle, aircraft, or watercraft had an open container of an alcoholic beverage in the person's immediate possession, the minimum term of confinement otherwise imposed under Subsection (a) is increased by six days, and the minimum and maximum fines otherwise imposed under Subsection (a) are increased by \$200. If it is shown on the trial of an offense otherwise punishable under Subsection (b) that at the time of the offense the person driving or operating the motor vehicle, aircraft, or watercraft had an open container of an alcoholic beverage in the person's immediate possession, the minimum term of confinement otherwise imposed under Subsection (b) is increased by 12 days, and the minimum and maximum fines otherwise imposed under Subsection (b) are increased by \$400.

Amendment No. 12 was adopted without objection.

Amendment No. 13

Representative Corte offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** as follows:

1) On page 4, line 2, insert a new Section 6 to read as follows:

SECTION 6. Chapter 38, Penal Code, is amended by adding Section 38.16 as follows:

Section 38.16. PREVENTING EXECUTION OF CIVIL PROCESS.
(a) A person commits an offense if he intentionally or knowingly by words or physical action prevents the execution of any process in a civil cause.

(b) It is an exception to the application of this section that the actor evaded service of process by avoiding detection.

(c) An offense under this section is a Class C misdemeanor.

2) Renumber all subsequent sections as necessary.

Amendment No. 13 was adopted without objection.

Amendment No. 14

Representative Ogden offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** by adding appropriately numbered sections to read as follows:

SECTION _____. Section 49.08, Penal Code, is amended by amending Subsection (a) and by adding Subsection (c) to read as follows:

(a) A person commits an offense if the person:

(1) operates a motor vehicle in a public place, an aircraft, or a watercraft; and

(2) is intoxicated and by reason of that intoxication causes by accident or mistake:

(A) the death of another; or

(B) bodily injury to another who is a pregnant woman and causes her to suffer a miscarriage or stillbirth [by accident or mistake].

(c) In this section:

(1) "Miscarriage" has the meaning assigned by Section 22.042(a)(1).

(2) "Stillbirth" has the meaning assigned by Section 22.042(a)(2).

SECTION . Chapter 22, Penal Code, is amended by adding Section 22.042 to read as follows:

Sec. 22.042. INJURY TO PREGNANT WOMAN. (a) In this section:

(1) "Miscarriage" means the interruption of the normal development of a fetus, other than by a live birth, resulting in the complete expulsion or extraction from a pregnant woman of a product of human conception.

(2) "Stillbirth" means the death of a fetus before the complete expulsion or extraction from its mother, regardless of the duration of the pregnancy, as manifested by the fact that after expulsion or extraction the fetus does not breathe spontaneously or show any other evidence of life such as heartbeat, pulsation of the umbilical cord, or definite movement of voluntary muscles.

(b) A person commits an offense if the person:

(1) intentionally or knowingly causes bodily injury to another who is a pregnant woman with intent to cause her to suffer a miscarriage or stillbirth; or

(2) intentionally or knowingly causes serious bodily injury to another who is a pregnant woman and causes her to suffer a miscarriage or stillbirth.

(c) It is an exception to the application of Subsection (b) that the pregnant woman or a person authorized by law to consent for the woman consented to the actor's conduct.

(d) An offense under Subsection (b)(1) is a felony of the second degree. An offense under Subsection (b)(2) is a felony of the first degree.

MESSAGE FROM THE SENATE

Austin, Texas, April 5, 1995

The Honorable Speaker of the House of Representatives
House Chamber

The Honorable
Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has passed the following:

SB 187 by Nelson, relating to fees on conviction to reimburse the state and political subdivisions for overtime pay for peace officers who testify at trial.

SB 188 by Nelson, relating to the service of summons and waiver of service in a juvenile court proceeding.

SB 586 by Armbrister, relating to payroll deductions for state employees for contributions to charitable organizations.

SB 897 by Sims, Brown, et al., relating to a review of Texas' programs to research, control, and eradicate animal tuberculosis and to implementing an improved program based on the review.

SB 1470 by Turner, Jim, relating to intellectual property rights and publications of the Texas Department of Transportation.

Respectfully,
Betty King
Secretary of the Senate

CSHB 2727 - (consideration continued)

Amendment No. 14 was pending.

Amendment No. 15

Representative Uher offered the following amendment to Amendment No. 14:

Amend the Ogden/Gallego amendment to **CSHB 2727** by striking the amendment to Section 49.08, Penal Code, (lines 5-20) (page 1 of the amendment)

Amendment No. 15 was adopted without objection.

Amendment No. 14, as amended, was adopted. (Danburg, De La Garza, Hochberg, Maxey, McDonald, Naishtat, Rodriguez, and Thompson recorded voting no; Brady, yes)

Amendment No. 16

Representative Combs offered the following amendment to **CSHB 2727**:

Amend **CSHB 2727** by adding an appropriately numbered SECTION to read as follows and by renumbering existing SECTIONS of the bill accordingly:

SECTION _____. Section 38.113, Penal Code, is amended to read as follows:

Sec. 38.113. UNAUTHORIZED ABSENCE FROM COMMUNITY CORRECTIONS FACILITY, COUNTY CORRECTIONAL CENTER, OR ASSIGNMENT SITE. (a) A person commits an offense if the person:

(1) is sentenced to or is required as a condition of community supervision or correctional programming [probation] to submit to a period of detention or treatment in a community corrections facility or county correctional center;

(2) [and the person] fails to report to or leaves the facility, the center, or a community service or programmatic assignment site as directed by the court, community supervision and corrections department supervising the person, or director of the facility or center in which the person is detained or treated, as appropriate; and

(3) in failing to report or leaving acts without the approval of the court, the community supervision and corrections department supervising the person, or the director of the facility or center in which the person is detained or treated.

(b) An offense under this section is a state jail felony.

Amendment No. 16 was adopted without objection.

CSHB 2727, as amended, was passed to engrossment. (Conley, Dutton, and G. Lewis recorded voting no; Combs and Solomons, yes)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Solis on motion of Hernandez.

HB 654 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 654, A bill to be entitled An Act relating to permitting a sequestered juror to vote on election day.

The bill was read second time and was passed to engrossment.

HB 670 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 670, A bill to be entitled An Act relating to permitting competitive hunting dog events on certain state-controlled property.

The bill was read second time and was passed to engrossment.

HB 984 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 984, A bill to be entitled An Act relating to the filing of a conduct surety bond by certain alcoholic beverage permit or license holders.

The bill was read second time.

Amendment No. 1

Representative Giddings offered the following amendment to the bill:

Amend **HB 984** by adding new sections to the bill to be numbered appropriately to read as follows:

SECTION _____. Section 11.11 (a), Alcoholic Beverage Code, is amended to read as follows:

Section 11.11 (a) Except as provided in Subsection (e) of this section, an applicant for a permit or a holder of a permit issued under Chapter 25, 28, or 32 of this code shall file with the commission a surety bond in the amount of \$5,000 or \$10,000 if the applicant for a permit or holder of a permit has a business located within 1000 feet of the property line of a public school conditioned on the applicant's or holder's conformance with alcoholic beverage law.

SECTION _____. Section 61.13 (a), Alcoholic Beverage Code, is amended to read as follows:

Section 61.13 (a) Except as provided in Subsection (e) of this section, an applicant for a license or a holder of a license issued under Chapter 69 of this code shall file with the commission a surety bond in the amount of \$5,000 or \$10,000 if the applicant for a license or holder of a license has a business

located within 1000 feet of the property line of a public school conditioned on the applicant's or holder's conformance with alcoholic beverage law.

Representative Yarbrough raised a point of order against further consideration of Amendment No. 1 on the grounds that Amendment No. 1 violates Rule 11, Section 2 of the House Rules.

The speaker overruled the point of order.

Representative Yarbrough moved to table Amendment No. 1.

The motion to table was lost.

Amendment No. 1 was adopted without objection.

HB 984, as amended, was passed to engrossment. (Stiles recorded voting no)

HB 1028 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1028, A bill to be entitled An Act relating to the enforcement of certain regulations regarding the employment of children.

The bill was read second time.

Amendment No. 1 (Committee Amendment No. 1)

On behalf of Representative Solomons, Representative Oliveira offered the following committee amendment to the bill:

Amend **HB 1028** as follows:

Delete the entire Section 1, and replace with the following new Section 1:

SECTION 1. Section 51.021(a), Labor Code, is amended to read as follows:

(a) The commission, or a person designated by the commission, may, during working hours:

(1) inspect a place where there is good reason to believe that a child is employed or has been employed within the last two years; and

(2) collect information concerning the employment of a child who works or within the last two years has worked at that place.

Amendment No. 1 was adopted without objection.

Amendment No. 2 (Committee Amendment No. 2)

Representative Oliveira offered the following committee amendment to the bill:

Amend **HB 1028** as follows:

On page 1, line 22, after "witnesses" and before "and" the following language: "who may be found with 100 miles of the relevant event".

Amendment No. 2 was adopted without objection.

HB 1028, as amended, was passed to engrossment.

HB 1323 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1323**.

CSHB 1323, A bill to be entitled An Act relating to the employment of children; providing a criminal penalty.

CSHB 1323 was read second time.

Amendment No. 1

Representative Romo offered the following amendment to **CSHB 1323**:

Amend **CSHB 1323** as follows:

(1) On page 2, strike lines 4 and 5 and substitute the following:

Sec. 51.031. OFFENSE; PENALTY. (a) Except as provided by Subsection (b), an [An] offense under this chapter is a Class B [E] misdemeanor.

(b) An offense under Section 51.014(d) is a Class A misdemeanor.

(2) On page 2, between lines 13 and 14, insert the following:

SECTION 4. (a) In addition to the changes in law made by this Act to the application of certain laws regulating the employment of children, this Act conforms Section 51.031, Labor Code, to Section 1, Chapter 331 (S.B. 939), Acts of the 73rd Legislature, Regular Session, 1993.

(b) Section 1, Chapter 331 (S.B. 939), Acts of the 73rd Legislature, Regular Session, 1993, is repealed.

(3) On page 2, line 14, strike "SECTION 4" and substitute "SECTION 5".

(4) On page 2, line 15, strike "SECTION 5" and substitute "SECTION 6".

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Romo offered the following amendment to **CSHB 1323**:

Amend **CSHB 1323** on page 1, line 10, between "organization" and "is", by inserting "or a business owned or operated by a parent, conservator, guardian, or other person who has possession of the child under a court order".

Amendment No. 2 was adopted without objection.

Amendment No. 3

Representative De La Garza offered the following amendment to **CSHB 1323**:

Amend **CSHB 1323** (1st Committee Printing) on page 2, between lines 1 and 2, by inserting the following:

(f) Subsection (d) does not apply to a child younger than 14 years of age selling items or services as a self-employed person with the consent of a parent.

Amendment No. 3 was adopted without objection.

CSHB 1323, as amended, was passed to engrossment.

HB 1647 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment,

HB 1647, A bill to be entitled An Act relating to purchasing and contracting authority of municipalities.

The bill was read second time.

Amendment No. 1

Representative Davila offered the following amendment to the bill:

Amend **HB 1647** as follows:

(1) On page 2, between lines 14 and 15, insert a new Section 2 to the bill to read as follows:

SECTION 2. Subchapter A, Chapter 252, Local Government Code, is amended by adding Section 252.004 to read as follows:

Sec. 252.004. ENCOURAGEMENT OF HISTORICALLY UNDERUTILIZED BUSINESS PARTICIPATION IN CERTAIN CIRCUMSTANCES. (a) A municipality that authorizes an expenditure relating to personal, professional, or planning services described by Section 252.022 is encouraged to establish a program designed to reasonably increase participation by minority businesses and women-owned businesses in contracts related to those expenditures.

(b) In this section, "minority business" and "women-owned business" have the meanings assigned by Section 381.004.

(2) Renumber subsequent sections of the bill accordingly.

Amendment No. 1 was adopted without objection.

HB 1647, as amended, was passed to engrossment. (Horn and Talton recorded voting no)

HB 1863 ON SECOND READING

The speaker laid before the house, on its second reading and passage to engrossment, the complete committee substitute for **HB 1863**.

CSHB 1863, A bill to be entitled An Act relating to eligibility for and the provision of services and other assistance to needy people, including health and human services and assistance in becoming self-dependent.

CSHB 1863 was read second time.

Amendment No. 1

Representative Junell offered the following amendment to **CSHB 1863**:

Amend **CSHB 1863** as follows:

(1) On page 1, lines 17-18, strike "Subject to subsection (c) of this section,".

(2) On pages 3-4, strike Subsections (b) and (c) of Section 1.02 of the bill and renumber subsequent subsections appropriately.

Amendment No. 1 was adopted without objection.

Amendment No. 2

Representative Price offered the following amendment to **CSHB 1863**:

Amend **CSHB 1863** as follows:

In Article 1 of the bill, insert a new section, appropriately numbered, to read as follows and renumber the subsequent sections accordingly:

SECTION 1.____. ADJUSTMENTS TO FAMILY GRANT. Subchapter A, Chapter 31, Human Resources Code, is amended by adding Section 31.0011 to read as follows:

Sec. 31.0011. ADJUSTMENTS. The department shall annually adjust the amount of financial assistance granted to a family under this chapter for the support of dependent children to reflect changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics.

Representative Coleman moved to table Amendment No. 2.

The motion to table prevailed.

Amendment No. 3

Representatives Maxey and Hilderbran offered the following amendment to **CSHB 1863**:

Amend **CSHB 1863** as follows, and renumber subsequent sections accordingly:

(1) On page 2, line 21, strike the word "disregards" and substitute "disregard".

(2) On page 2, line 25, add a new subsection (c) to read as follows:

(c) The department may not consider any income earned by a dependent child who is attending school and whose income is derived from the child's part-time employment for the purposes of determining:

(1) the amount of financial assistance granted to an individual under this chapter for the support of dependent children; or

(2) whether the family meets household income and resource requirements for eligibility for financial assistance under this chapter.

(3) On page 4, line 22 to 24, strike "assist a recipient in assessing the particular needs of that recipient and that recipient's family" and substitute "by rule determine those individuals who will receive a needs assessment".

(4) On page 7, line 23, strike "7 C.F.R. Section 273" and substitute "7 CFR Part 273".

(5) On page 8, line 14, strike subsection (A).

(6) On page 8, on line 25, at the end of subsection (d), add: "The department shall provide each applicant with a copy of the signed agreement."

(7) On page 8, line 27, strike the word "responsibilities" and substitute "benefits".

(8) On page 9, line 11, strike "and 31.0033" and insert "31.0033, and 31.0034".

(9) On page 10, line 7, between "recipient" and "participate" insert ", for whom a needs assessment was conducted,".

(10) (Amendment deleted)

(11) On page 13, between lines 4 and 5, insert the following:

Sec. 31.0034. ANNUAL REPORT. (c) The department shall prepare and submit an annual report to the legislature that contains statistical information regarding persons who are applying for or receiving financial assistance or services under this chapter, including the number of persons receiving assistance, the type of assistance those persons are receiving, and the length of time those persons have been receiving the assistance. The report must also contain information on:

(1) the number of persons to whom Section 31.0031 and 31.0065 apply;

(2) the number of persons under each time limit category;

(3) the number of persons who are exempt from participation under Section 31.012(b);

(4) the number of persons who were receiving financial assistance under this chapter but are no longer eligible to receive that assistance because they failed to comply with the requirements prescribed by Sections 31.0031 and 31.0065; and

(5) the number of persons who are no longer eligible to receive financial assistance or transitional benefits under this chapter because:

(a) the person's household income has increased due to employment or marriage; or

(b) the person has exhausted the person's benefits under this chapter; and

(6) the number of persons receiving child care, job training or other support services designed to assist the transition to self sufficiency.

(12) On page 13, line 20, strike "11.2093" and substitute "11.2094".

(13) On page 13, line 21, strike "11.2093" and substitute "11.2094".

(14) On page 17, line 27 and page 18, line 1 strike "during the initial process of determining eligibility".

(15) On page 18, line 7, after the word "sites." add the following:

In selecting the test sites, the department shall give priority to those locations with the highest ability to implement this section.

(16) On page 19, line 7, amend Section 31.0035 by adding new subsections (c) and (d) as follows:

(c) The department by rule shall adopt a system of co-payments in order to have a person who receives transitional child-care services under this section contribute an amount toward the cost of the services according to the person's ability to pay.

(d) The department by rule shall provide for sanctions for a person who is financially able to contribute the amount required by subsection (c) but fails to pay.

(17) On page 19, line 25, amend Section 32.0255 by adding the subsection (c), (d), and (e) to read as follows:

(c) The Texas Department of Health, in conjunction with the other state agencies that administer a part of the Medicaid program, by rule shall adopt a system of co-payments, significantly similar to the co-payments established in the Medicaid program, in order to have a person who receives transitional medical assistance under this section contribute an amount toward the cost of the assistance according to the person's ability to pay.

(d) The Texas Department of Health, in conjunction with the other state agencies that administer a part of the Medicaid program, by rule shall provide for sanctions for a person who is financially able to contribute the amount required under subsection (c) but fails to contribute.

(e) A person who is not financially able to contribute under subsection (c) may not be denied medical assistance.

(18) On page 20, line 18, between "noncompliance" and "under this section" insert "and for notification procedures regarding participation in work or employment activities".

(19) On page 20, line 19-20 and line 23, strike the words: "younger than six years of age" and substitute "five years of age or younger".

(20) On page 23, line 9, strike "Section 31.0126" and insert "Section 31.0126 and 31.0127".

(21) On page 25, after line 16, add a new Section 31.0127 to read as follows:

Sec.31.0127 TRAINING GRANTS. (a) The state agency charged with administering the JOBS program may by rule develop a program to provide training grants to employers hiring AFDC recipients.

(b) Funding for the program described above shall be provided for by:

(1) federal job training funds;

(2) available JOBS program money; and

(3) available funds, if any, in the State Unemployment Trust Fund, targeted for training programs, as allowed for by federal law.

(c) It is the intent of this subsection that the grant will provide up to 50 percent of a business' training costs.

(22) On page 25, line 21, after "In this section", add "and Section 4.056".

(23) On page 27, line 10, strike "subchapter" and substitute "section".

(24) On page 29, strike SECTION 5.01 of the bill and substitute the following:

SECTION 5.01. PRIORITY GIVEN TO AFDC CHILD SUPPORT CASE; SUPPORT FOR CHILDREN IN SUBSTITUTE CARE. Section 76.003, Human Resources Code, is amended to read as follows:

Sec. 76.003. Assignment of Right to Support. (a) The filing of an application for or the receipt of financial assistance under Chapter 31 of this code constitutes an assignment to the Title IV-D agency ~~[attorney-general]~~ of any rights to support from any other person that the applicant or recipient may have in his own behalf or for a child for whom the applicant or recipient is claiming assistance, including the right to the amount accrued at the time the application is filed or the assistance is received. An applicant's assignment under this section is valid only if the Texas Department of Human Services approves the application. The Title IV-D agency ~~[attorney-general]~~ may distribute support payments or parts of payment received by it to the family for whom the payments are made or may use the payments to provide assistance and services to and on behalf of needy dependent children.

(b) Child support payments for the benefit of a child whose support rights have been assigned to the Title IV-D agency ~~[attorney-general]~~ under this

section or under Section 76.004 shall be made payable to and transmitted to the Title IV-D agency ~~[attorney general]~~. If a court has ordered support payments to be made to an applicant for or recipient of financial assistance or to a person other than such applicant or recipient, the Title IV-D agency ~~[attorney general]~~ may file notice of the assignment with the court ordering payments. The notice must include:

(1) a statement that the child is an applicant for or recipient of financial assistance, or a child other than a recipient child for whom services are provided;

(2) the name of the child and the caretaker for whom support has been ordered by the court;

(3) the style and cause number of the case in which support was ordered; and

(4) a request that the payments ordered be made payable and transmitted to the Title IV-D agency ~~[attorney general's office]~~.

(c) On receipt of the notice and without a requirement of a hearing, the court shall order that the payments be made to the Title IV-D agency ~~[attorney general's office]~~.

(d) The Title IV-D agency ~~[attorney general's office]~~ shall cooperate with the Texas Department of Human Services in determining the distribution and use of child support payments received under this section.

(e) The Title IV-D agency ~~[attorney general]~~ may file a notice of termination of assignment which may include a request that all or a portion of the payments be made payable to the Title IV-D agency ~~[attorney general]~~ and to such other persons who are entitled to receive such payments. On receipt of notice of termination of assignment the court shall order that the payments be directed as set forth in the notice.

(f) If an abstract of judgment or a child support lien on support amounts assigned to the Title IV-D agency ~~[attorney general]~~ under this chapter has previously been filed of record, the Title IV-D agency ~~[attorney general]~~ shall file for recordation, with the county clerk of each county in which such abstract or lien has been filed, a certificate that an order of assignment or a notice of termination of assignment has been issued.

(25) On page 43, strike lines 21-27, and on page 44 strike lines 6-10.

On page 44, strike lines 6-10 and replace with the following:

(2) provide information and help train employees to correctly screen applicants under this section as requested by the commission.

(26) On page 46, strike lines 23-27 and on page 47, strike lines 1-5.

On page 47, line 6, strike SECTION 6.04 in its entirety and replace with a new Section 6.04 to read as follows:

SECTION 6.04 EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH MENTAL ILLNESS AND MENTAL RETARDATION.

Section 533.008, Health and Safety Code, is amended by amending the caption and subsection (a) and adding Subsection (e) to read as follows:

Section 533.008 EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH MENTAL ILLNESS AND MENTAL RETARDATION ~~[PATIENTS AND CLIENTS]~~. (a) Each department facility and community center shall annually assess the feasibility of converting entry level support

positions into employment opportunities for individuals [~~patients~~] with mental illness and [~~clients with~~] mental retardation in the facility's or center's service area.

(e) Each department facility and community center shall ensure that designated staff are trained to:

(1) assist clients through Social Security Administration disability determination process;

(2) provide clients and their families information related to the Social Security Administration Work Incentive Provisions; and

(3) assist clients in accessing and utilizing the Social Security Administrative Work Incentive Provisions to finance training, services, and supports needed to obtain career goals.

(27) On page 47, line 25, add a new Section as follows:

SECTION 6.____. DONATED PURCHASE AGREEMENTS. Chapter 22, Human Resources Code, is amended by adding the following Section 22.028 to read as follows:

Sec. 22.028. AGREEMENTS FOR PURCHASE OF SERVICES FOR CHILDREN. (a) To ensure the maximum use of available federal matching funds for child care services, the Department of Human Services shall enter into agreements with the appropriate local community organizations to receive donations to be used for the purchase of services for which matching federal funds are available.

(b) The Department of Human Services shall cooperate with each local community organization to develop guidelines for the use of that community's donation to provide the services described in subsection (a) of this section.

(28) On page 50, line 19, strike "or a significant adult in a" and substitute "a parent, or a member of the".

On page 50, line 20, after "family" add "as defined in Sec. 71.01(b)(3) of the Family Code".

(29) On page 50, line 25, strike "FOSTER" and insert "SUBSTITUTE".

On page 51, on line 3, on line 5 and on line 10, strike "foster" and insert "substitute".

(30) On page 52, line 1, strike "Section 1320b-2(b)" and substitute "Section 1132(b)".

(31) On page 56, line 21, strike "Uniform Group Insurance Program" and substitute "Texas Employees Uniform Group Insurance Program".

(32) On page 58, line 21, add a new subsection (d) as follows:

(d) The expenditures from an individual's development account are limited to educational and medical expenses, work related expenditures, including a self-employment enterprise, and housing or moving expenses for the individual and an immediate family member.

(33) On page 62, strike SECTION 8.05, and substitute the following:

SECTION 8.05. REPORT. Article 4413(502), Revised Statutes, is amended by adding Section 24 to read as follows:

Section 24. (a) In a manner consistent with the rules adopted under subsection (c) of this section, the commission and each health and human services agency shall prepare a report for the governor, lieutenant governor,

speaker of the house, comptroller and Legislative Budget Board, and appropriate legislative committees on that agency's efforts to streamline the delivery of services. The report shall be developed semiannually and delivered to the governor, lieutenant governor, speaker of the house, comptroller, Legislative Budget Board, and the chair of the legislative oversight committees for the agency.

(b) In a manner consistent with the rules adopted under subsection (c) of this section, each executive head of a health and human services agency shall prepare a report for the governing body of that agency on that agency's efforts to streamline and simplify the delivery of services. The report required by this subsection shall be made quarterly.

(c) The commissioner shall adopt rules relating to the timing, contents and method of delivery of the reports required by subsections (a) and (b) of this section. Each agency shall follow the rules adopted by the commission regarding the reports required by this section.

SECTION 8.05A. Amend Art. 4413(502) by adding a new subsection (d) to Section 14 to read as follows:

(d) No later than October 1 of each year, the commissioner shall submit to the governor, lieutenant governor, speaker of the house, comptroller, and Legislative Budget Board a workplan outlining the activities of the commission for that fiscal year. The workplan shall prioritize activities based on available resources.

(34) On page 66, lines 18-21, strike Section 8.08(b) and replace with the following:

(b) If the owner is an individual, the owner must give his social security number on those title applications originating in counties where the Department's automated Registration and Title System has been implemented. The county or the Department shall enter the applicant's social security number in the Department's electronic data base, but shall not print the social security number on the certificate of title.

(35) On page 69, lines 8-9, Section 8.10, strike subsection (c)(1).

(36) In Article 9, add a new SECTION, appropriately numbered, to read as follows:

SECTION 9.____. LEGISLATIVE APPROPRIATIONS REQUEST APPROVAL. (a) Section 13, Article 4413(502), Revised Statutes, is amended by adding a new subsection (d) to read as follows:

(d) A health and human services agency may not submit to the legislature or the governor its legislative appropriations request until the legislative appropriations request is approved by the commission.

(b) The changes in law made by this section apply to legislative requests made on or after September 1, 1995.

(37) In Article 9, add a new SECTION, appropriately numbered, to read as follows:

SECTION 9.____. Article 4413(502), Revised Statutes, is amended by adding Section 13C to read as follows:

Sec. 13C. COORDINATION AND APPROVAL OF CASELOAD ESTIMATES.

(a) The commission shall coordinate and approve caseload estimates made for programs administered by health and human services agencies.

(b) To implement this section, the commission shall:

(1) adopt uniform guidelines to be used by health and human services agencies in estimating their caseloads, with allowances given for those agencies for which exceptions from the guidelines may be necessary;

(2) assemble a single set of economic and demographic data and provide that data to each health and human services agency to be used in estimating its caseloads; and

(3) seek advice from health and human services agencies, the Legislative Budget Board, the governor's budget office, the comptroller, and other relevant agencies as needed to coordinate the caseload estimating process.

(c) The commission shall assemble caseload estimates made by health and human services agencies into a coherent, uniform report and shall update the report quarterly, with assistance from those agencies. The commission shall publish the report and make it readily available to state and local agencies and interested private organizations.

(d) In the report prepared under Subsection (c) of this section, the commission shall explain the caseload estimates using monthly averages, annual unduplicated recipients, annual service usage, and other commonly used measures.

(e) The commission shall attach a copy of the report prepared under Subsection (c) of this section to the consolidated health and human services budget recommendation submitted to the Legislative Budget Board under Section 13 of this article and shall submit the report to the legislature when it convenes in regular session.

(38) In Article 9, add a new SECTION, appropriately numbered, to read as follows:

SECTION 9.____. Amend Section 19, Article 4413(502), Revised Statutes, to read as follows:

Sec. 19. (a) In this article, "health and human services agencies" includes the:

- (1) Interagency Council on Early Childhood Intervention Services;
- (2) Texas Department on Aging;
- (3) Texas Commission on Alcohol and Drug Abuse;
- (4) Texas Commission for the Blind;
- (5) Texas Commission for the Deaf and Hearing Impaired;
- (6) Texas Department of Health;
- (7) Texas Department of Human Services;
- (8) Texas Juvenile Probation Commission;
- (9) Texas Department of Mental Health and Mental Retardation;
- (10) Texas Rehabilitation Commission; and
- (11) Department of Protective and Regulatory Services.

(b) The board of a health and human services agency may fill a vacancy in the position of administrative head of the agency with the approval of the governor.

(39) On page 75, line 24, add the following:

(4) obtain commission approval for any adjustment to the agency's operating budget.

(c) In consultation with the agencies subject to this article, the commission shall adopt rules regarding the implementation of Sec. 13B, Article 4413(502), Revised Statutes.

(40) On page 78, line 7, add "USE OF SAVINGS;" between "ARTICLE 10." and "REPEALER;"

On page 78, line 8, add a new subsection 10.01 as follows:

SECTION 10.01. USE OF SAVINGS. An agency that realizes any savings as a result of changes established by this Act shall use all money saved exclusively for the purpose of aiding recipients of AFDC benefits to achieve employment and self-sufficiency or to aid families that are at risk of becoming dependent on AFDC. The programs that these savings may be used for include emergency benefits, transitional medical and child-care benefits, the JOBS program or other employment opportunity programs, or any additional programs that are used to help AFDC recipients achieve employment and self sufficiency.

(41) On page 78, line 7, add "APPLICABILITY;" between "EFFECTIVE DATE;" and "EMERGENCY".

On page 78, line 23, add a new subsection 10.04 as follows:

SECTION 10.04. APPLICABILITY OF THIS ACT. The provisions of this Act may not be applied to deny eligibility for medical assistance to any person who is otherwise eligible under provisions of Chapter 32, Human Resources Code, as it existed before the adoption of this Act. The provisions of this Act may not be applied to grant eligibility for benefits under the provision of Chapter 61, Health and Safety Code.

Amendment No. 4

Representative Chisum offered the following amendment to Amendment No. 3:

Amend Amendment No. 3 by Maxey and Hilderbran to **CSHB 1863** as follows:

On page 5 of the amendment, item number 34 strike "social security number" and substitute "driver's license number" each time those words appear in item number 34.

Representative Maxey moved to table Amendment No. 4.

The motion to table prevailed.

Amendment No. 5

Representative Raymond offered the following amendment to Amendment No. 3:

Amend Amendment No. 3 by Maxey and Hilderbran to **CSHB 1863** as follows:

On page 2 of the amendment in items (16) and (17), delete the word "transitional".

Amendment No. 5 was adopted without objection.

Amendment No. 6

Representative Krusee offered the following amendment to Amendment No. 3:

Amend Amendment No. 3 by Maxey and Hilderbran to **CSHB 1863** as follows:

On page 1 of the amendment, delete item (9).

Representative Naishtat moved to table Amendment No. 6.

A record vote was requested.

The motion to table prevailed by (Record 135): 72 Yeas, 69 Nays, 1 Present, not voting.

Yeas — Alexander; Alonzo; Alvarado; Bailey; Bosse; Clemons; Coleman; Combs; Conley; Counts; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dear; Dukes; Dutton; Ehrhardt; Farrar; Gallego; Giddings; Glaze; Gray; Greenberg; Gutierrez; Hawley; Hernandez; Hightower; Hilderbran; Hirschi; Hochberg; Hudson; Jones, J.; Junell; King; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McDonald; Moreno; Munoz; Naishtat; Oliveira; Pickett; Place; Price; Puente; Rangel; Raymond; Rhodes; Rodriguez; Romo; Sadler; Saunders; Seidlits; Serna; Solomons; Stiles; Tillery; Torres; Turner, S.; Uher; Van de Putte; West; Willis; Wilson; Wolens; Yarbrough.

Nays — Allen; Averitt; Black; Brady; Brimer; Carter; Chisum; Cook; Corte; Crabb; Craddick; Culberson; Delisi; Denny; Driver; Duncan; Eiland; Elkins; Finnell; Goodman; Goolsby; Grusendorf; Haggerty; Hamric; Harris; Hartnett; Heflin; Hilbert; Hill; Holzheuser; Horn; Howard; Hunter, B.; Hunter, T.; Jackson; Janek; Johnson; Jones, D.; Kamel; Krusee; Kubiak; Kuempel; Madden; McCall; McCoulskey; Moffat; Mowery; Nixon; Oakley; Ogden; Park; Patterson; Pitts; Rabuck; Ramsay; Reyna; Rusling; Shields; Siebert; Smithe; Staples; Swinford; Talton; Turner, B.; Walker; Williamson; Wohlgemuth; Woolley; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Carona; Solis; Yost.

Absent — Berlanga; Edwards; Marchant; Telford; Thompson.

Amendment No. 7

Representative Wohlgemuth offered the following amendment to Amendment No. 3:

Amend Amendment No. 3 by Maxey and Hilderbran to **CSHB 1863** by striking item number 40 of the amendment which adds a new SECTION 10.01 to the bill.

Representative Hilderbran moved to table Amendment No. 7.

A record vote was requested.

The motion to table prevailed by (Record 136): 86 Yeas, 56 Nays, 1 Present, not voting.

Yeas — Alexander; Alonzo; Alvarado; Bailey; Black; Bosse; Carter; Clemons; Coleman; Combs; Conley; Counts; Cuellar, H.; Cuellar, R.; Danburg; Davila; Davis; De La Garza; Dear; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Gallego; Giddings; Glaze; Goolsby; Gray; Greenberg; Hamric; Hawley; Hernandez; Hightower; Hilderbran; Hill; Hirschi; Hochberg; Hunter, T.; Jackson; Jones, D.; Jones, J.; Junell; King; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Maxey; McCall; McCoulskey; McDonald; Moffat; Moreno; Munoz;

Naishtat; Oliveira; Pickett; Pitts; Place; Price; Puente; Rangel; Raymond; Rhodes; Rodriguez; Romo; Sadler; Seidlits; Serna; Stiles; Telford; Thompson; Tillery; Torres; Turner, S.; Uher; Van de Putte; Willis; Wilson; Wolens; Yarbrough; Zbraneck.

Nays — Allen; Averitt; Brady; Brimer; Chisum; Cook; Corte; Crabb; Craddick; Culberson; Delisi; Denny; Duncan; Elkins; Finnell; Goodman; Grusendorf; Haggerty; Harris; Hartnett; Heflin; Hilbert; Horn; Howard; Hunter, B.; Janek; Johnson; Kamel; Krusee; Kubiak; Kuempel; Madden; Mowery; Nixon; Oakley; Ogden; Park; Patterson; Rabuck; Ramsay; Reyna; Rusling; Saunders; Shields; Siebert; Smithee; Solomons; Staples; Swinford; Talton; Turner, B.; Walker; West; Williamson; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Carona; Solis; Yost.

Absent — Berlanga; Gutierrez; Holzhauser; Hudson.

Amendment No. 3, as amended, was adopted.

HR 552 - ADOPTED

The speaker laid before the house the following privileged resolution:

By Gallego,

HR 552

BE IT RESOLVED by the House of Representatives of the State of Texas, 74th Legislature, Regular Session, 1995, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on Senate Bill No. 821 to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(1), is suspended to permit the committee to amend text in Section 325.061(a), Tax Code, to read as follows:

The county commissioners court may call an election on its own motion or shall call an election if a number of qualified voters of the county equal to at least five percent of the number of registered voters in the county petitions the commissioners court to call the election.

Explanation: This change is necessary to clarify the authority of the commissioners court to call an election under its own authority.

(2) House Rule 13, Section 9(a)(3), is suspended to permit the committee to add text in Section 325.061(a), Tax Code, to read as follows:

An election under this chapter must be held on the next uniform election day not less than 25 days after the day on which the order calling the election was passed.

Explanation: This change is necessary to expedite the calling of an election by the commissioners court.

The resolution was adopted without objection.

RULES SUSPENDED

Representative Seidlits moved to suspend the 5-day posting rule to allow the Committee on State Affairs to consider **HB 2128**.

The motion prevailed without objection.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public Health, Subcommittee on **HB 2402**, on recess today, Desk 91, to consider **HB 2402**, relating to tattoo studios.

Appropriations, on recess today.

Licensing and Administrative Procedures, 7:15 p.m. today, E1.026, Capitol Extension, to consider items previously posted.

Juvenile Justice and Family Issues, 7:15 p.m. today, E2.016, Capitol Extension.

Civil Practices, on recess today.

Transportation, on recess today.

Economic Development, Subcommittee on **HB 2065**, 9 a.m. Thursday, April 6, E2.018, Capitol Extension, to consider committee amendment and report to full committee.

Local and Consent Calendars, on recess today, Desk 81, to consider **HB 2168** and **HB 2283**.

Criminal Jurisprudence, Procedural Subcommittee, will not meet today.

Ways and Means, on recess today, Desk 70, to consider **HB 900**.

State Affairs, Subcommittee on **HB 2973**, on recess today, Desk 10, to consider **HB 2973**.

State Affairs, 6:45 p.m. today, Room 106, Reagan Building, to consider **HB 2128**.

State Recreational Resources, 30 minutes after recess (rescheduled from one hour after recess) today, E1.010, Capitol Extension.

RECESS

Representatives Danburg and Kamel moved that the house recess until 10 a.m. tomorrow in memory of William A. "Bill" Scott, and Carole LeTort, Traci Barbee, Brenda Linam, DeWallas Jones, Ira English, April English, Saundria Williams, Ashton Williams, and Ashley Williams.

The motion prevailed without objection.

The house accordingly, at 6:16 p.m., recessed until 10 a.m. tomorrow.

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

Business and Industry - **HB 1637**

Civil Practices - **HB 971**

County Affairs - **HB 246, HB 960**

Energy Resources - **HB 2039, HB 2880, HCR 145**

Environmental Regulation - **HB 2473**

Financial Institutions - **HB 2388**

Higher Education - **HB 2313**

Insurance - **HB 121, HB 347, HB 773**

Judicial Affairs - **SCR 16**

Juvenile Justice and Family Issues - **HB 256**

Natural Resources - **SB 584**

State Recreational Resources - **HB 1785**

Transportation - **HB 344, HB 1208, HB 1617**

ENGROSSED

April 4 - **HB 85, HB 223, HB 276, HB 947, HB 981, HB 1178, HB 1341**

ENROLLED

April 5 - **HCR 48, HCR 49, HCR 141, HCR 151**